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4 UNITED STATES DISTRICT COURT  
5 EASTERN DISTRICT OF WASHINGTON  
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7 ALAN DEATLEY,

8 Plaintiff,

9 vs.

10 ALBERT DEATLEY, et al,

11 Defendants.  
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)  
) No. CV-04-3082-JLQ  
)

) MEMORANDUM OPINION AND  
) ORDER DENYING POST-DISMISSAL  
) MOTIONS  
)  
)  
)

13 On August 22, 2006, this court entered its Order To Show Cause Re: Motions and  
14 Pleadings Filed Subsequent To Dismissal of Complaint and Claims and Closing Of File.  
15 (C.R. 292). Counsel have now responded to this Order. Counsel for Alan Deatley asks  
16 that the court not rule on any post-dismissal motions and counsel for Holland and Knight  
17 states that the court should not rule on the post-judgment motions. Richard Price, one of  
18 the Plaintiff's former attorneys, legitimately states that he is unable to determine if the  
19 court retained jurisdiction over the attorney fee issue since he has not been furnished a  
20 copy of the Settlement Agreement. It would seem that the content of the Settlement  
21 Agreement would be relevant to Mr. Price's position, both as to the continuing  
22 jurisdiction of this court in this case and also in this or any other court as to what  
23 reasonable fee is owed to Mr. Price for services rendered to the Plaintiff. However, the  
24 court does not deem it necessary that a copy of the Settlement Agreement be furnished  
25 Mr. Price at this time without briefing by the parties in that the court has reviewed the  
26 Settlement Agreement and found that other than the statement that the Settlement  
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1 Agreement and the Order of Dismissal “shall not affect the pending attorney fee lien  
2 claims,” and the retention of funds by attorney Andrew Smythe in the amount of attorney  
3 lien claims, there is absolutely no other reference to the attorney fee matter. There is no  
4 retention of jurisdiction stated in the Settlement Agreement or court orders. The court  
5 did not retain jurisdiction over the putative dispute between the Plaintiff and his former  
6 attorneys and those issues were not part of the underlying action. By reason thereof, the  
7 court determines that it has no jurisdiction over the post-dismissal motions and the  
8 attorney fee disputes.

9 This determination should not be construed as any reluctance on the part of this  
10 court to determine the attorney fee issue if presented to the court through the filing of a  
11 subsequent action between the Plaintiff’s former attorneys and the Plaintiff, assuming  
12 diversity of citizenship and amount in controversy, which would appear from the attorney  
13 liens to be present. The court has only raised the issue of whether that dispute could be  
14 properly litigated in the prior action, in view of the obligation of federal courts, both  
15 district and appellate, to dismiss an action if jurisdiction is lacking, even after the parties  
16 have gone through pre-trial and trial expense in the resolution of the matter, which could  
17 then implicate the statute of limitations, etc. and even if the jurisdictional issue was not  
18 raised by any party. If necessary, the unpaid attorneys are free to bring new actions for  
19 their fees in either federal or state courts.

20 The Clerk of this court shall enter this Order, forward copies to counsel, and again  
21 close this file.

22 **DATED** this 11th day of September 2006.

23  
24 s/ Justin L. Quackenbush

25 JUSTIN L. QUACKENBUSH  
26 SENIOR UNITED STATES DISTRICT JUDGE  
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